Supreme Court of the United States

OCTOBER TERM, 1944

THE NORTH SHORE CORPORATION,
a corporation,

Petitioner,

vs.

WILLIAM J. SCOTT, RUBIN KNOX
and W. M. YOUNG,

Respondents.

PETITION FOR WRIT OF CERTIORARI

The North Shore Corporation, a corporation organized and existing under the Laws of the State of Florida, prays that a writ of certiorari issue to review the Judgment of the United States Circuit Court of Appeals for the Fifth Circuit in the above case, entered June 9, 1944, petition for rehearing upon which was denied July 11, 1944 (R. 26 and 32) ....F. (2d) .... A certified transcript of the record in the case, including the proceedings and opinion in that court, is filed herewith, together with ten copies of the record as printed below.

STATEMENT OF THE MATTER INVOLVED

(a) History of the Case

Subsequent to the decision of this Court in *Overstreet* vs. *North Shore Corporation,* 318 U. S. 125, respondents brought suit in the United States District Court in and for the Southern District of Florida, seeking recovery from

petitioner and another corporation, later dismissed from the action, of divers amounts alleged to be due them under the Fair Labor Standards Act of 1938 (52 Stat. 1060, U. S. Code, Title 29, Sec. 201-219) for unpaid minimum wages, overtime compensation, additional equal amounts as liquidated damages, and attorneys' fees (R. 1-5). The complaint was modelled upon the complaint held good in the Overstreet case, supra, which, after remand, was then being prepared for trial. The complaint is substantially the same as that involved in the record in the Overstreet case, simultaneously filed under the style, *The North Shore Corporation* vs. *Barnett, et al,* in which cause petitioner is simultaneously seeking Writ of Certiorari addressed to the judgment of the Circuit Court of Appeals for the Fifth Circuit in that case, which judgment was entered on the same day as that sought to be reviewed herein and involved the identical facts. The answer of Petitioner (R. 7-15) presented the same defenses as were attempted to be presented in the Overstreet case, now styled *The North Shore Corporation* vs. *Barnett, et al,* and the two causes were consolidated for trial (R. 72, Barnett case). Respondents recovered $2,389.46 and costs (R. 16).

The record (R. 23) shows that the appeal in this case involved points which were identical with points also involved in the Barnett case and that the appeal should be decided ultimately in precisely the same fashion as the case of *The North Shore Corporation* vs. *Barnett.*

The parties have similarly stipulated in this cause, and filed their joint motion that the petition in this cause be considered together with the Petition for Certiorari filed in *The North Shore Corporation* vs. *Barnett.* (See infra.)

(b) Statement of the Case

This case involves the claims of toll takers on the toll road mentioned in *The North Shore Corporation* vs. *Barnett,* and the facts in evidence in support of their claim are identical with those in support of the claims of the toll takers in *The North Shore Corporation* vs. *Barnett.* Since it has been agreed, subject to approval of this Court, that this cause be considered together with the case of *The North Shore Corporation* vs. *Barnett,* the statement of the case therein contained is not repeated here, but leave of court is respectfully requested to prepare such statement of the case as would be appropriate for separate consideration of this petition, should the court see fit to disapprove the agreement and deny the motion for consolidation.

JURISDICTIONAL STATEMENT

The jurisdiction of this court is invoked under U. S. Code, Title 28, Sec. 347 (a).

THE QUESTIONS PRESENTED

REASONS RELIED UPON FOR ALLOWANCE OF WRIT

The questions presented and the reasons relied upon for allowance of the Writ of Certiorari in this cause are identical with those presented and relied upon in *The North Shore Corporation* vs. *Barnett,* petition and brief in which are simultaneously filed. Assuming permission of the Court jointly to present the two cases upon the record, proceedings and brief in the *Barnett* case, the questions involved and reasons relied upon are not here re-stated.

WHEREFORE, petitioner prays that a writ of certiorari issue to the United States Circuit Court of Appeals for the Fifth Circuit commanding that Court to certify and send to this Court, on a day to be designated, a full and complete transcript of record and proceedings in said Circuit Court of Appeals had in this cause to the end that this cause may be reviewed and determined by this Court; that the Judgment of the Circuit Court of Appeals be reversed and that Petitioner be granted such other and further relief as may seem proper.

W. Gregory Smith,
910 Bisbee Building,
Jacksonville, Florida,
Attorney for Petitioner.

BRIEF IN SUPPORT OF PETITION

It is respectfully requested that reference be had to the brief in support of the Petition for Writ of Certiorari in *The North Shore Corporation* vs. *Barnett*, filed simultaneously with the filing hereof, and that such brief be treated as filed in support hereof.

Respectfully submitted,

W. Gregory Smith,
910 Bisbee Building,
Jacksonville, Florida,
Attorney for Petitioner.

JOINT MOTION TO CONSOLIDATE PETITION WITH THAT FILED UNDER THE STYLE THE NORTH SHORE CORPORATION VS. BARNETT FOR BRIEFING, CONSIDERATION AND DETERMINATION

The respective parties hereto respectfully move the Court to consolidate this cause with that filed simultaneously with the filing hereof, styled *The North Shore Corporation* vs. *Barnett, et al,* for consideration of the Petition for Writ of Certiorari, for the briefing thereof and for determination whether same should issue herein, and in support hereof show:

1. This cause involves points which are identical with points which are also involved in the Petition for Writ of Certiorari in the case of *The North Shore Corporation* vs. *Isadore Barnett, et al.* The two cases were consolidated for trial in the Trial Court, and were consolidated for argument, briefing and decision in the Circuit Court of Appeals for the Fifth Circuit.

2. The application for Writ of Certiorari herein should be decided, ultimately, in precisely the same fashion that the application entitled *The North Shore Corporation* vs. *Barnett, et al,* is decided.

The parties agree, subject to approval of the Court, that the record in the Barnett case shall be used as the record herein, so far as is necessary.

W. Gregory Smith,
910 Bisbee Building,
Jacksonville, Florida,
Attorney for Petitioner.

Lucien H. Boggs,
1001 Bisbee Building,
Jacksonville, Florida,
Attorney for Respondents.